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15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 LAS VEGAS SUN, INC., a Nevada
18 corporation,

19 Plaintiff,

20 v.

21 SHELTON ADELSON, an individual and
as the alter ego of News+Media Capital
Group LLC and as the alter ego of Las
Vegas Review Journal, Inc.; PATRICK
22 DUMONT, an individual; NEWS+MEDIA
CAPITAL GROUP LLC, a Delaware
23 limited liability company; LAS VEGAS
REVIEW-JOURNAL, INC., a Delaware
24 corporation; and DOES, I-X, inclusive,

25 Defendants.
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Case No.: 2:19-cv-01667-GMN-VCF

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S MOTION FOR LEAVE TO
FILE UNDER SEAL EXHIBIT 5 TO
PLAINTIFF'S REPLY IN SUPPORT OF
MOTION TO COMPEL PRODUCTION
OF DOCUMENTS IN RESPONSE TO
REQUEST NO. 405 [ECF NO. 582]**

AND

**MOTION FOR LEAVE TO FILE UNDER
SEAL [ECF NO. 420-2]**

1 LAS VEGAS REVIEW-JOURNAL, INC.,
2 a Delaware corporation,

3 Counterclaimant.

4 v.

5 LAS VEGAS SUN, INC., a Nevada
6 corporation; BRIAN GREENSPUN, an
7 individual and as the alter ego of Las
8 Vegas Sun, Inc.; GREENSPUN MEDIA
9 GROUP, LLC, a Nevada limited liability
10 company, as the alter ego of Las Vegas
11 Sun, Inc.

12 Counterclaim Defendants.
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MEMORANDUM OF POINTS AND AUTHORITIES

I.

RESPONSE TO ECF NO. 582

On February 9, 2022, the Sun filed its Reply in Support of Motion to Compel Production of Documents in Response to Request No. 405. ECF Nos. 583, 584 (FUS) (the “Reply”). In conjunction with the Reply, the Sun also filed its Motion for Leave to File Under Seal Exhibit 5 to its Reply. ECF No. 582. Exhibit 5 is a January 22, 2021, letter from Defendants’ counsel to the Sun’s counsel attaching a 20-page chart listing the search terms run by Defendants in the course of responding to the Sun’s requests for production of documents in this action. ECF No. 584-5. Defendants had marked the chart as “Confidential” under the parties’ protective order. *Id.*

The Sun seeks to “temporarily” file Exhibit 5 under seal and places the burden on Defendants to establish the good cause to seal this exhibit. ECF No. 582 at 3:19–21. Exhibit 5 contains personal, non-public email addresses of parties and non-parties in this litigation, which should not be made public. Defendants are not seeking to redact emails ending with: sands.com, reviewjournal.com, lasvegassun.com, or gatehousemedia.com. Thus, Defendants request this Court require the Sun to redact the personal, non-public email addresses contained within Exhibit 5 before publicly filing the document. This information is attached to the Sun’s discovery brief and is not “more than tangentially related to the merits of the case[,]” so Defendants need only meet the lower “good cause” test to justify its sealing. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (holding “good cause” is sufficient grounds to seal materials attached to a non-dispositive motion”); *see also Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2015).

Similarly, there is a low public right to information attached to a pleading that is irrelevant to the issues tried in this case. *See, e.g., In re Nat’l Consumer Mortg., LLC*, 512 B.R. 639, 641-42 (D. Nev. June 19, 2014) (holding that because exhibit “was irrelevant to the issues tried in this matter,” the “public’s right to know th[e] information as part of a court record is low.”). Courts also routinely allow the sealing and redacting of private email addresses under both the good cause and heightened compelling reasons tests. *See, e.g., Al Otro Lado, Inc. v. Wolf*, 2020 WL

8617491, at *2 (S.D. Cal. Mar. 12, 2020) (permitting redactions of email addresses from exhibits); *Ehret v. Uber Technologies, Inc.*, 2015 WL 12977024, at *3 (N.D. Cal. Dec. 2, 2015) (finding email addresses are not relevant to the merits of the case and granting defendant’s motion to seal to redact email addresses); *In re Hydroxycut Marketing and Sales Practices Litig.*, 2011 WL 864897, at *1 (S.D. Cal. Mar. 11, 2011) (granting motion to seal to redact exhibits because they revealed email addresses of individuals, which could expose them to “unnecessary harassment”).

At the February 22, 2022, hearing, the Special Master ordered that personal email addresses may be redacted from public filings. However, given that the Sun’s motion to seal is currently pending with Defendants’ response due on February 23, Defendants file this response in an abundance of caution, so the motion is not unopposed on the docket, potentially leading to the unsealing of this information. Therefore, Defendants respectfully request this Court order the Sun to redact the personal, non-public email addresses contained within Exhibit 5 (ECF No. 584-5) before publicly filing the document.

II.

MOTION FOR LEAVE TO FILE UNDER SEAL [ECF NO. 420-2]

On June 21, 2021, Interface Operations LLC dba Adfam (“Adfam”) filed its Opposition to Plaintiff’s Renewed Motion to Compel Compliance with Adfam Subpoena, along with an Appendix of Exhibits. ECF Nos. 419 and 420. Attached at ECF No. 420-2 is a May 4, 2021, letter from Defendants’ counsel to the Sun’s counsel attaching an 82-page chart of Defendants’ ESI search terms run in connection with Defendants’ discovery efforts in this action. ECF No. 420-2. That chart contains personal, non-public email addresses of parties and non-parties in this litigation, which were inadvertently not redacted before publicly filing. Defendants file this motion to seal and seek to seal ECF No. 420-2, which is already on the public docket. If the Court grants this motion and seals the version of ECF No. 420-2 on the public docket, Defendants will then publicly file a redacted version of ECF No. 420-2, which will only redact the personal, non-public email addresses listed in the chart. Defendants are not seeking to redact emails ending with: sands.com, reviewjournal.com, lasvegassun.com, or gatehousemedia.com.

1 This information is attached to Adfam’s discovery brief and is not “more than tangentially
2 related to the merits of the case[.]” so Defendants need only meet the lower “good cause” test to
3 justify its sealing. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)
4 (holding “good cause” is sufficient grounds to seal materials attached to a non-dispositive
5 motion”); *see also Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir.
6 2015). Similarly, there is a low public right to information attached to a pleading that is irrelevant
7 to the issues tried in this case. *See, e.g., In re Nat’l Consumer Mortg., LLC*, 512 B.R. 639, 641-
8 42 (D. Nev. June 19, 2014) (holding that because exhibit “was irrelevant to the issues tried in this
9 matter,” the “public’s right to know th[e] information as part of a court record is low.”). As stated
10 above, courts routinely allow the sealing and redacting of private email addresses under both the
11 good cause and heightened compelling reasons tests. *See, e.g., Al Otro Lado, Inc. v. Wolf*, 2020
12 WL 8617491, at *2 (S.D. Cal. Mar. 12, 2020) (permitting redactions of email addresses from
13 exhibits); *Ehret v. Uber Technologies, Inc.*, 2015 WL 12977024, at *3 (N.D. Cal. Dec. 2, 2015)
14 (finding email addresses are not relevant to the merits of the case and granting defendant’s motion
15 to seal to redact email addresses); *In re Hydroxycut Marketing and Sales Practices Litig.*, 2011
16 WL 864897, at *1 (S.D. Cal. Mar. 11, 2011) (granting motion to seal to redact exhibits because
17 they revealed email addresses of individuals, which could expose them to “unnecessary
18 harassment”).

19 Therefore, Defendants respectfully request this Court seal ECF No. 420-2. If the Court
20 grants this motion and seals the version of ECF No. 420-2 on the public docket, Defendants will
21 then publicly file a redacted version of ECF No. 420-2, which will only redact the personal, non-
22 public email addresses listed in ECF No. 420-2.

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1 Dated: February 23, 2022

2 KEMP JONES, LLP

3 /s/ Mona Kaveh

4 J. RANDALL JONES, ESQ., SBN 1927

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PROOF OF SERVICE

I hereby certify that on the 23rd day of February, 2021, I served a true and correct copy of the foregoing **DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE TO FILE UNDER SEAL EXHIBIT 5 TO PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO COMPEL PRODUCTION OF DOCUMENTS IN RESPONSE TO REQUEST NO. 405 [ECF NO. 582] AND MOTION FOR LEAVE TO FILE UNDER SEAL [ECF NO. 420-2]** via the United States District Court's CM/ECF electronic filing system to all parties on the e-service list.

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